

REMARKS

Claims 1-8 are all the claims pending in the application.

In the present Amendment, claim 1 has been amended to recite that the resin composition comprises a polyolefin resin mixed with an ultrafine nylon fibers-dispersed polyolefin resin composition, a bromine-containing flame retardant and magnesium hydroxide particles. Support for the amendment to claim 1 can be found in the specification, for example, at pages 21-22, Table 1, Example 3. Example 3 of the instant specification is directed to a resin composition including (1) low-density polyethylene, (2) bromine-containing flame retardant, (3) Ny-PO and (4) magnesium hydroxide particles.

No new matter has been added, and entry of the Amendment is respectfully requested.

I. Response to Rejection under 35 U.S.C. § 102(e) Based on Ittel

Claims 1, 4 and 8 are rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by newly cited Ittel (US 2005/0058822).

Applicants respectfully traverse.

Contrary to the Examiner's assertion, Ittel filed on August 3, 2004 and published on March 17, 2005 is not available as prior art under §102 (e). The present application is a 371 application of PCT/JP03/13791 filed October 28, 2003 which is earlier than the August 3, 2004 filing date of Ittel. The Examiner has apparently overlooked this fact.

Accordingly, reconsideration and withdrawal of the foregoing §102 rejection based on Ittel are respectfully requested.

II. Response to Rejection under 35 U.S.C. § 103 Based on Metzemacher

Claims 1 and 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Metzemacher (US 5,827,906).

Applicants respectfully traverse.

Claim 1 is directed to a resin composition to be used for electric wire sheaths.

Claim 1, as amended, recites that the resin composition comprises a polyolefin resin mixed with an ultrafine nylon fibers-dispersed polyolefin resin composition, a bromine-containing flame retardant and magnesium hydroxide particles.

Metzemacher is relied upon by the Examiner as disclosing a composition for use with cable (Col. 1, line 25) comprising magnesium hydroxide, polymer such as thermoplastic olefins (Col. 10, line 44), and optionally polyamide fibers (Col. 3, line 55).

However, Metzemacher does not disclose or teach a bromine-containing flame retardant.

Accordingly, the present claims are patentable over Metzemacher. Reconsideration and withdrawal of the §103(a) rejection based on Metzemacher are respectfully requested.

III. Response to Rejections under 35 U.S.C. § 102/§ 103 Based on JP ‘570

Claims 1-3 are rejected under 35 U.S.C. § 103(a) as being unpatentable over JP ‘570 (JP 11-106570) in view of Metzemacher (US 5,827,906).

Claims 4-6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over JP ‘570 in view of Metzemacher, and further in view of Sugiyama (US 4,082,909).

Applicants respectfully traverse the above rejections.

The Examiner takes the position that JP ‘570 discloses the claimed invention, except for the use of magnesium hydroxide in the composition.

Metzemacher is then relied upon by the Examiner to make up the deficiency of JP ‘570. The Examiner asserts that Metzemacher discloses a composition comprising thermoplastic polyolefins, polyamide fibers, and magnesium hydroxide, wherein the magnesium hydroxide is used to impart flame retardance to polyolefin composition. The Examiner then concludes that

since JP ‘570 is open to the use of additives and since Metzemacher teaches that magnesium hydroxide is advantageously and successfully added to polyolefin compositions containing polyamide fiber in order to impart flame retardance, it would have been obvious to one of ordinary skill in the art to add magnesium hydroxide to the composition of JP ‘570.

Applicants respectfully disagree.

Contrary to the Examiner’s assertion, it would not have been obvious to add magnesium hydroxide to the resin composition of JP ‘570, for at least the following reasons.

The combination of JP ‘570 and Metzemacher would not produce desired results.

As previously pointed out in the Response filed August 10, 2009, the addition of magnesium hydroxide to the resin composition JP ‘570 would bring an increase in density and would basically tend to bring a reduction in rigidity and strength of the resin composition. Moreover, it would give a molded product a poor visual appearance. Further, it was an object of JP ‘570 to provide a composition for a molded product having high rigidity, strength and creep resistance and low density (see paragraph [0005] of JP ‘570). The addition of a large proportion of magnesium hydroxide to the composition of JP ‘570 would not have allowed the inventors of JP ‘570 to attain the object of their invention. That is why nowhere in JP ‘570 is disclosed or suggested the need or desire for adding any inorganic filler including magnesium hydroxide to the resin composition. Instead, in JP ‘570, polyamide fibers are used for reinforcing the polyolefin resin (see paragraphs [0002] to [0004] of JP ‘570). The intended function of the polyolefin polyamide resin composition of JP ‘570 would be changed or impaired if modified to include magnesium hydroxide.

Further, the combined teaching of JP ‘570, Metzemacher and Sugiyama fails to teach all and every elements of amended claim 1.

As noted, claim 1 presently recites that the resin composition comprises a bromine-containing flame retardant. Neither JP '570 or Metzemacher discloses a bromine-containing flame retardant. Sugiyama does not make up the noted deficiencies of JP '570 and Metzemacher.

Accordingly, the present claims are not obvious over JP '570, either alone or in view of Metzemacher and/or Sugiyama. Reconsideration and withdrawal of the foregoing §103(a) rejections of the present claims are respectfully requested.

IV. Response to Rejection under 35 U.S.C. § 103 Based on JP '464 and JP '963

Claims 1, 2 and 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over newly cited JP '464 (JP 11/302464) in view of JP '963 (JP 2000-344963).

Claims 4-7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over JP '464 in view of JP '963 and further in view of Sugiyama.

Applicants submit that the above rejections should be withdrawn because JP '464 in view of JP '963 and Sugiyama does not disclose or render obvious the presently claimed resin composition.

The Examiner asserts that JP '464 discloses a resin composition for use in electric wire (paragraph 0001) comprising 90-99 wt % polyolefin and 1-10 wt % polyamide fiber having an average fiber diameter of 1 micron or less and an aspect ratio of 20-1,000 (paragraph 0017), and silane coupling agent (Abstract). The Examiner acknowledges that JP '464 fails to disclose the use of magnesium hydroxide in the composition; however, the Examiner considers that JP '464 is open to the use of other additives such as fillers (paragraph 0026).

The Examiner cites JP '963 to make up the deficiency of JP '464. JP '963 is said to disclose a polyolefin resin composition for use in a sheath of electric wires. The Examiner

asserts that JP '963 teaches that flame-retardant inorganic particle, such as magnesium hydroxide, is useful (Abstract). The Examiner then concluded that it would have been obvious to one of ordinary skill in the art to utilize magnesium hydroxide in the resin composition of JP '464.

Applicants respectfully traverse.

Applicants submit that there is insufficient motivation to combine JP '464 and JP '963.

JP '464 discloses at paragraph [0026] (based on English machine translation) a list of additives, such as carbon black, white carbon, activated carbon acid calcium, an ultrafine particle magnesium silicate, high styrene resin, phenol resin, a lignin, conversion melamine resin, cumarone indene resin, etc. However, JP '464 does not disclose or suggest the need or desire for adding magnesium hydroxide as an additive to the resin composition. Magnesium hydroxide is just one additive among various types of possible adhesives. The Examiner has not articulated the reason as to why one would select magnesium hydroxide.

JP '963 discloses a non-halogenated flame-retardant polyolefin resin composition (which comprises a flame-retardant polyolefin resin, low mol. wt. polyethylene and an acid) preferably further contains *an inorganic metal hydrate* (for example, magnesium hydroxide). However, nowhere in JP '464 is concerned with a resin composition in need of an *inorganic metal hydrate*.

Further, the combined teachings of JP '461 and JP '963 does not teach all and every elements of the resin composition of claim 1, as amended, which comprises a bromine-containing flame retardant.

Neither JP '464 or JP '963 discloses a bromine-containing flame retardant.

Sugiyama does not make up the noted deficiencies of JP '464 and JP '963.

In view of the above, it is respectfully submitted that JP '464 in view of JP '963 and/or Sugiyama does not render obvious the claimed subject matter. Applicants respectfully request reconsideration and withdrawal of the present §103 rejections of claims 1-8.

V. Response to Double Patenting Rejection

Claims 1-6 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 7, 13, and 14 of copending Application No. 10/533,159 (published as US 2006/0241221).

A patent has not yet issued from the '159 Application. Accordingly, the present double patenting rejection with regard to the '159 Application is a provisional double patenting rejection. Applicants respectfully request that the present provisional double patenting rejection with regard to '159 Application be held in abeyance at this time.

VI. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

<p>SUGHRUE MION, PLLC Telephone: (202) 293-7060 Facsimile: (202) 293-7860 <small>WASHINGTON DC SUGHRUE/265550</small> 65565 <small>CUSTOMER NUMBER</small> Date: April 5, 2010</p>	<p>Respectfully submitted, <hr/><i>/Sunhee Lee/</i> <hr/><p>Sunhee Lee Registration No. 53,892</p><p>Respectfully submitted, <hr/><i>/Yan Lan/</i> <hr/><p>Yan Lan Registration No. 50,214</p></p></p>
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